

Court File No:

Numéro de dossier: **HC-352-13.**

IN THE COURT OF QUEEN'S BENCH OF
NEW BRUNSWICK

COUR DU BANC DE LA REINE DU
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE PREMIÈRE INSTANCE

JUDICIAL DISTRICT OF MONCTON

CIRCONSCRIPTION JUDICIAIRE DE
MONCTON

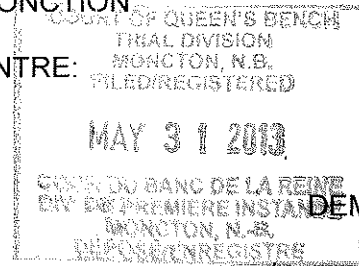
BETWEEN:

ENTRE:

G.P.L.

PLAINTIFF,

- and -



DEMANDERESSE,

- et -

**THE ROMAN CATHOLIC ARCHBISHOP
OF MONCTON carrying on business as
The Roman Catholic Archdiocese of
Moncton and YVON ARSENAULT,**

DEFENDANTS,

DÉFENDEURS.

**NOTICE OF ACTION WITH STATEMENT OF
CLAIM ATTACHED**
(FORM 16A)

**AVIS DE POURSUITE ACCOMPAGNÉ
D'UN EXPOSÉ DE LA DEMANDE**
(FORMULE 16A)

TO: **THE ROMAN CATHOLIC ARCHBISHOP
OF MONCTON**
452 Amirault Street
Dieppe, NB
E1A 1G3

DESTINATAIRE:

AND: **YVON ARSENAULT**

LEGAL PROCEEDINGS HAVE BEEN
COMMENCED AGAINST YOU BY FILING
THIS NOTICE OF ACTION WITH STATEMENT
OF CLAIM ATTACHED.

PAR LE DÉPÔT DU PRÉSENT AVIS DE
POURSUIITE ACCOMPAGNÉ D'UN EXPOSÉ
DE LA DEMANDE, UNE POURSUITE
JUDICIAIRE A ÉTÉ ENGAGÉE CONTRE
VOUS.

If you wish to defend these proceedings, either
you or a New Brunswick lawyer acting on your
behalf must prepare your Statement of Defence
in the form prescribed by the Rules of Court and
serve it on the plaintiff or the plaintiff's lawyer at

Si vous désirez présenter une défense dans
cette instance, vous-même ou un avocat du
Nouveau-Brunswick chargé de vous
représenter devrez rédiger un exposé de votre
défense en la forme prescrite par les Règles

the address shown below and, with proof of such service, file it in this Court Office together with the filing fee of \$50,

- (a) if you are served in New Brunswick, WITHIN 20 DAYS after service on you of this Notice of Action With Statement of Claim Attached, or
- (b) if you are served elsewhere in Canada or in the United States of America, WITHIN 40 DAYS after such service, or
- (c) if you are served anywhere else, WITHIN 60 DAYS after such service.

If you fail to do so, you may be deemed to have admitted any claim made against you, and without further notice to you, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE.

You are advised that:

- (a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;
- (b) the plaintiff intends to proceed in the English language; and
- (c) your Statement of Defence must indicate the language in which you intend to proceed.

If you pay to the plaintiff or the plaintiff's lawyer the amount of the plaintiff's claim, together with the sum of \$100 for the plaintiff's costs, within the time you are required to serve and file your Statement of Defence, further proceedings will be stayed or you may apply to the court to have the action dismissed.

de procédure, le signifier au demandeur ou à son avocat à l'adresse indiquée ci-dessous et le déposer au greffe de cette Cour avec un droit de dépôt de \$50 et une preuve de sa signification:

- (a) DANS LES 20 JOURS de la signification qui vous sera faite du présent avis de poursuite accompagné d'un exposé de la demande, si elle vous est faite au Nouveau-Brunswick ou
- (b) DANS LES 40 JOURS de la signification, si elle vous est faite dans une autre région du Canada ou dans les États-Unis d'Amérique ou
- (c) DANS LES 60 JOURS de la signification, si elle vous est faite ailleurs.

Si vous omettez de le faire, vous pourrez être réputé avoir admis toute demande formulée contre vous et, sans autre avis, JUGEMENT POURRA ÊTRE RENDU CONTRE VOUS EN VOTRE ABSENCE.

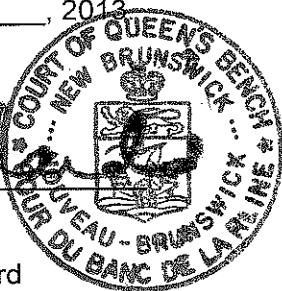
Sachez que:

- (a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;
- (b) le demandeur a l'intention d'utiliser la langue française.; et
- (c) l'exposé de votre défense doit indiquer la langue que vous avez l'intention d'utiliser.

Si, dans le délai accordé pour la signification et le dépôt de l'exposé de votre défense, vous payez au demandeur ou à son avocat le montant qu'il réclame, plus \$100 pour couvrir ses frais, il y aura suspension de l'instance ou vous pourrez demander à la cour de rejeter l'action

THIS NOTICE is signed and sealed for the
Court of Queen's Bench by
Anne Richard, Clerk of the Court at 145
Assumption Boulevard, Moncton, NB, on the
3rd day May, 2013.

Anne Richard



Clerk
145 Assumption Boulevard
P.O. Box 5001
Moncton, New Brunswick
E1C 8R3

CET AVIS est signé et scellé au nom de la
Cour du Banc de la Reine par
_____, greffier de la Cour à
145, rue Assumption, Moncton, Nouveau-
Brunswick, ce _____ jour _____,
2013.

Clerk
145 boul. Assumption
C.P. 5001
Moncton, New Brunswick
E1C 8R3

STATEMENT OF CLAIM

Parties:

1. The plaintiff, G.P.L. (the "Plaintiff"), was born on August 18, 1958, and presently resides in the community of Grand-Barachois, in the Province of New Brunswick.

2. The Plaintiff was at all material times, a member of the Roman Catholic Church through the Roman Catholic Bishop of Moncton, a provincially incorporated or otherwise organized entity, carrying on business as the Roman Catholic Archdiocese of Moncton (the "Archdiocese"). Specifically, the Plaintiff was a member of the St. Henri parish in Grand-Barachois.

3. The Defendant Father Yvon Arsenault ("Arsenault") was, during all material times, a priest of the Roman Catholic Church and was employed by the Archdiocese. Arsenault was also for the majority of the material time a priest at the Church in the parish of St. Joseph in Shediac, New Brunswick, and was employed there from 1968 - 2012.

4. Valéry Vienneau ("Vienneau") was appointed as Archbishop of the Archdiocese on June 15, 2012 and presently holds that appointment. He resides in the City of Dieppe, in the Province of New Brunswick. As Archbishop, he is the corporate sole of the Archdiocese.

5. André Richard ("Richard") was appointed as Archbishop of the Archdiocese on March 16, 2002 and retired on June 15, 2002. He resides in the City of Dieppe, in the Province of New Brunswick. While he was Archbishop, he was the corporate sole of the Archdiocese.

6. Ernest Léger ("Ernest") was appointed as Archbishop of the Archdiocese on November 27,

1996 and resigned on March 16, 2002. He resides in the City of Dieppe, in the Province of New Brunswick. While he was Archbishop, he was the corporate sole of the Archdiocese.

7. The Defendant Archdiocese is a diocese of the Roman Catholic Church charged with the administration of parishes of the Roman Catholic Church within their geographical jurisdiction. The Archdiocese head office is located in the City of Dieppe, in the Province of New Brunswick.

8. The Archdiocese, during all material times, had the following purpose and responsibility:

- (a) the establishment and maintenance of a uniform set of rules and principles which collectively define the ideology of the Roman Catholic religion;
- (b) the establishment of churches and schools to teach and inculcate these rules and principles in their members; and
- (c) the recruitment, selection, training and supervision of priests to carry out their purposes.

9. The Archdiocese and the Archbishops all had a duty of care to the Archdiocese's parishioners owing to the close proximity of its priests to the lives of the parishioners as well as the level of trust and faith which the parishioners and others extended to the Archdiocese, its priests and employees. Arsenault also owed a duty of care to the Plaintiff by the nature of his position as a priest. Arsenault, the Archdiocese and the Archbishops all also owed fiduciary duties to the Plaintiff due to nature of their relationship and the power imbalance inherent in such.

The Actions of Arsenault

10. Arsenault was ordained to the priesthood by the Archdiocese following their recruitment, selection and training of him. He was immediately posted to parish work within the Archdiocese.

11. In or about June 1974, the Plaintiff met Arsenault through the funeral services provided by the Church in Grand-Barachois for his deceased brother. Arsenault befriended the Plaintiff's family at this vulnerable time. He counselled them in his capacity as priest and attended the funeral, the wake, and spent time at their residence, counselling the family. Arsenault then began regularly attending the Plaintiff's family's residence for suppers and social events.

12. Arsenault engaged in activities with the Plaintiff in his capacity as a priest, counselling him in religion, Catholic education and other matters. His activities included providing spiritual guidance and counselling.

13. Through his position as a priest and representative of the Archdiocese, Arsenault was to the Plaintiff the ultimate ecclesiastical authority.

14. Arsenault used his position as a priest of the Archdiocese, which was a position of authority and trust, to develop a close personal relationship with the Plaintiff when he was young. The relationships that Arsenault developed with the Plaintiff, under the guise of a priest-parishioner relationship, allowed Arsenault an opportunity to be alone with the Plaintiff and to exert total control over him, prey upon him and sexually abuse him.

15. Commencing in approximately the summer of 1974, when the Plaintiff, was 15 years of age, and on numerous occasions over the summer, Arsenault repeatedly sexually abused, assaulted

and molested the Plaintiff. The particulars of same include, but are not limited to the following:

- (a) exposed his naked body to the Plaintiff;
- (b) fondled the clothed and naked body of the Plaintiff, including but not limited to his penis, scrotum and buttocks;
- (c) masturbated in the presence of the Plaintiff, including to ejaculation;
- (d) masturbated the Plaintiff
- (e) engaged in other sexual activities with the Plaintiff; and
- (f) in order to facilitate the abuses Arsenault engaged in a pattern of behaviour which was intended to make the Plaintiff feel that he was special in the eyes of Arsenault, the Church and God; and
- (g) in order to facilitate the abuses Arsenault also engaged in a pattern of behaviour which was intended to make the Plaintiff feel that his soul was in jeopardy

16. The aforementioned behaviours occurred on premises, which were owned or controlled by the Archdiocese, specifically the Rectory of the Church in St. Joseph Parish in Shediac. The abuse also took place at a beach in Grand Barachois, at the residence of the Plaintiff in his bedroom, and in a motel room in Moncton, New Brunswick.

17. The aforementioned behaviour occurred on several occasions. All of the aforementioned behaviours were related to priest-parishioner activities.

18. Throughout the period of time that the aforementioned behaviour was occurring, Arsenault used his position of authority and trust, as well as the dependency relationship that he had fostered with the Plaintiff, to ensure that the Plaintiff did not tell anyone about the behaviours in which they had engaged in. Arsenault continued to minister to the Plaintiff during this time, which included

providing spiritual counselling.

19. Arsenault's behaviour constituted sexual battery and assault. It was also a breach of the duty of care that he owed to the Plaintiff in that, *inter alia*, he did wilfully and/or negligently inflict pain and suffering, mental suffering, humiliation and degradation upon the Plaintiff, assaulted the Plaintiff and interfered with his normal upbringing and childhood solely for the purpose of his own gratification. Arsenault's activities also constituted a breach of the fiduciary duty to which Arsenault owed the Plaintiff.

The Actions of the Archdiocese:

20. The Archdiocese taught the Plaintiff as well as other members of the Catholic Church the following:

- (a) that the Roman Catholic Church is the one true religion and is the representation of God's true teachings on earth;
- (b) that the authority of the Roman Catholic Church is supreme;
- (c) that by following the rules, principles and ideologies of the Roman Catholic Church one will gain the right to go to Heaven and that by failing to follow same one will not go to heaven and will go to Hell;
- (d) that parents must bring their children up in the ways of the Roman Catholic Church and that children must attend at Catholic schools so that they can be educated with respect to the ways of the Church;
- (e) that you must go to church at least once a week and attend Catholic schools where the rules, principles and ideologies of the Roman Catholic Church and religion are taught;
- (f) that the rule of God is supreme and that to disobey the rule of God is a mortal sin

which will cause one to go to Hell;

- (g) that God's representation on earth and the teaching of God are done through priests;
- (h) that priests are the chosen representatives on earth of God and have special powers; and
- (i) that priests are to be viewed with special reverence, power, respect, honour and authority.

21. The Archdiocese employed Arsenault to carry out the purposes and teachings referred to above in dealing with the Plaintiff. They provided Arsenault with the opportunity and means to come into contact with the Plaintiff. They fostered a relationship between Arsenault and the Plaintiff. They provided Arsenault with a position of respect and trust which the Plaintiff was bound by the rules set out above to follow and honour. They provided Arsenault with control of the Church and related rectory which further added to his position of power and respect.

22. The Plaintiff pleads that, at all material times, Arsenault was acting in the course of his duties as a priest of the Roman Catholic Church and the Archdiocese and was using the aforementioned rules, principles and ideologies to further his attempts to manipulate the Plaintiff and engage in deviant activities.

23. The Plaintiff pleads that the aforementioned rules, principles and ideologies of the Archdiocese created an opportunity for Arsenault to exert power and authority over the Plaintiff. This power and authority allowed Arsenault to engage in the aforementioned behaviour and to continue to engage in same without resistance or question of the Plaintiff without risk of getting caught, and thereby put the Plaintiff at risk of being abused by Arsenault.

24. The Plaintiff pleads that Arsenault was, as a result of his position with the Archdiocese which allowed him to use the premises owned by the Archdiocese, and to gain access to the Plaintiff, affording him an opportunity to foster a trusting relationship with the Plaintiff and engage in the aforementioned behaviours for a considerable period of time without the risk of getting caught and thereby put the Plaintiff at risk of being abused by Arsenault.

25. As a result, the Archdiocese is vicariously responsible and liable for the actions of Arsenault.

26. The Plaintiff pleads that the Archdiocese was negligent and failed in its duty to the Plaintiff, the particulars of which are set out below:

- (a) it failed to recognize that a certain percentage of priests would become sexually deviant and would make sexual advances to children and young people;
- (b) it failed to instruct priests in training and ordained priests about the possibilities of becoming sexually deviant and/or making advances to children and young people;
- (c) it failed to properly investigate Arsenault's background, character and psychological state prior to accepting him into the seminary and later the priesthood;
- (d) it failed to document, discipline or expel Arsenault for his shortcomings as a seminarian;
- (e) it failed to follow its own internal policies in ordaining Arsenault to the priesthood;
- (f) it failed to warn Arsenault's immediate supervisors, parishioners, students and others who may come into contact with Arsenault of his difficulties as a seminarian;
- (g) it failed to educate members of the Roman Catholic Church about the possibilities of such deviant behaviours;
- (h) it failed to have any, or a proper, system of self-reporting, other-reporting or counselling in place for priests who engage in such behaviour;

- (i) it fostered a system, based on the rules, principles and ideologies of the church, in which deviant sexual practices were bound to develop among a percentage of the priests;
- (j) it fostered a system, based on the rules, principles and ideologies of the church, in particular, the rule that priests have absolute authority, whereby the reporting of such deviant sexual behaviour of a priest by its members would be considered to be "wrong";
- (k) it denied the existence, or alternatively was wilfully blind to the existence of the behaviours described herein;
- (l) it implemented and maintained a system which was designed to cover-up the existence of such behaviour if such behaviour was ever reported;
- (m) it failed to react to the volume of complaints it received regarding sexual misconduct by its priests;
- (n) it failed to protect the Plaintiff from Arsenault when it knew or ought to have known that he was vulnerable to the attentions and influence of Arsenault;
- (o) it failed to properly supervise, control and give guidance to their employee Arsenault;
- (p) it failed to screen and/or monitor the character, sexual orientation and sexual activity of Arsenault;
- (q) it failed to warn the Plaintiff and others of the propensities of Arsenault;
- (r) it failed to remove Arsenault from his duties upon learning of the allegations of sexual and other inappropriate conduct thereby leaving the Plaintiff exposed to Arsenault and his actions without protection;
- (s) it deterred, obstructed or avoided police prosecution of Arsenault for sexual misconduct;
- (t) it failed to protect the Plaintiff;

- (u) it failed to take steps to investigate the activities of Arsenault once it was fully aware of his shortcomings in an effort to locate and assist any victims; and
- (v) it failed to identify, counsel and assist the Plaintiff once it knew of Arsenault's prior behaviour.

27. In addition to, and in the alternative to, the above the Plaintiff pleads that the Archdiocese knew that Arsenault had the propensity to engage in such deviant behaviours and that he was, in fact, engaging in such deviant behaviour because of the following:

- (a) Arsenault's difficulties as a seminarian;
- (b) Arsenault's difficulties with alcohol;
- (c) Arsenault's difficulties with his sexuality;
- (d) Arsenault's difficulties with his physical, mental or psychological health which effected his abilities as a priest;
- (e) The concerns of other clergy, parishioners, students and others;
- (f) the frequency with which the Plaintiff and other children and young people were involved with Arsenault;
- (g) the unusual interest that Arsenault took in young people and children, particularly the Plaintiff;
- (h) the duration of time in which the Plaintiff, other children and young people spent regular time alone with Arsenault;
- (i) the fact that parents and others at Arsenault's parish postings had complained about his actions with young people;
- (j) the fact that he had prior to the Plaintiff's abuse, been reported to Archdiocesan officials for sexual misconduct; and
- (k) the fact that Arsenault would have, in accordance with the rules of the Roman

Catholic Church, confessed about these deviant sexual behaviours (i.e. sins) from time to time to one or more of the other priests.

28. Despite their knowledge of same, the Archdiocese took no steps to stop the behaviour or to protect the Plaintiff and, instead, took steps to attempt to cover-up the behaviour.

29. In the alternative, if the Archdiocese did not have direct knowledge of the aforementioned behaviours, the Plaintiff pleads that the Archdiocese ought to have known about same because of the circumstances, as detailed above, surrounding the acts.

30. If the Archdiocese did not know of the aforementioned behaviour, it was because of the existence of its own rules, principles and ideologies which allowed Arsenault to conceal his activities and cover up his deviant behaviour.

31. The Plaintiff pleads that the Archdiocese owed a special duty to the Plaintiff by virtue of its relationship with him to identify the Plaintiff and counsel and render assistance to the Plaintiff once they became aware of the behaviour of Arsenault. Furthermore, they should have sought out Arsenault's victims upon later learning of his misconduct since the damage from Arsenault's actions continues on those victims, thereby making their negligence a continuing tort.

32. The Archdiocese knew or ought to have known that Arsenault had engaged in deviant behaviour while ministering and failed to investigate such. In failing to investigate and identify any past failings of Arsenault they also failed to identify any victims who may have been in need of counselling, assistance and support because of the actions of Arsenault. Such assistance would be necessary in order to minimize the consequences of Arsenault actions and the effect of same on the

Plaintiff. They have failed, to this day, to investigate the extent of Arsenault's past behaviour and have failed to render any meaningful assistance to the Plaintiff, contrary to their own internal policies and the policies of the Canadian Conference of Catholic Bishops.

33. The Plaintiff states that the relationship between him, the Diocese and Arsenault commenced when the Plaintiff was a child, as such, the defendants owed to the Plaintiff a high duty/standard of care and, in particular, a duty to protect him from harm by its employees (i.e. priests) and specifically sexual abuse.

34. The Archdiocese learned of Arsenault's abuse over the course of his career including during the recent criminal prosecution and they failed to take any meaningful action against Arsenault and also failed to identify the Plaintiff and provide him with any meaningful assistance. This constitutes further negligence on the part of the Diocese in that their above failures caused additional negative effects upon the Plaintiff.

35. The Plaintiff says that the Archdiocese, for the aforementioned reasons, failed in its duty of care to him and was thereby negligent. Furthermore the Archdiocese breached its fiduciary duty to the Plaintiff by those same actions/inactions.

36. The Archbishops of the Diocese at the material times were shepherds to their archdiocesan flocks and had a direct fiduciary duty to the Plaintiff. As a result, the herein mentioned behavior of the Archdiocese, as directed, supervised and controlled by the Archbishops constituted a breach of the fiduciary duty owed to the Plaintiff. The Diocese is vicariously or directly liable for the negligence and/or fiduciary breaches of the Archbishops. The above mentioned behavior of Arsenault outlined also constituted a breach of fiduciary duty by Arsenault for which the Archdiocese is vicariously

liable.

The Actions of the Archbishops

37. The Archbishops, Vienneau, Richard and Ernest, (collectively the "Archbishops") during their particular terms, were the superior ecclesiastical authority within the Archdiocese. Their responsibilities included, but were not limited to, the supervision of clergy, the care of the faithful and adherence to the dictates of the Roman Catholic faith, specifically the Code of Canon Law.

38. The Archbishops during their tenure as Archbishop, or earlier, all obtained information or allegations that Arsenault had abused young parishioners during his time as a priest for the Archdiocese. The Archbishops failed to take appropriate action with this information and were thereby negligent. The specifics are as follows:

- a. they failed to conduct a canonical or other internal investigation as to the veracity of the information they obtained on Arsenault;
- b. they failed to identify, locate, or interview both clergy and laity alike who may have had information confirming or denying the allegations against Arsenault;
- c. they failed to document or failed to retain the documentation concerning any allegations and/or investigative efforts taken by them, the Archdiocese or any third parties concerning the allegations, thereby committing spoliation of evidence;
- d. they failed to communicate, to both church members and officials as well as secular authorities, the full extent of the information they had on Arsenault;
- e. they failed to provide in a timely fashion meaningful assistance to the victims of Arsenault, like the Plaintiff;
- f. they failed to take any effort to identify in a timely fashion the victims of Arsenault, like the Plaintiff; and

- g. they failed to act in a pastoral manner to the victims of Arsenault, like the Plaintiff, until media scrutiny and public demands made such actions a necessity.

39. The Archbishops were all involved with or had knowledge of the allegations made by a victim of Arsenault in approximately 1998. Despite this knowledge none of the Archbishops, in any capacity, took action to assist other victims of Arsenault for years, until media scrutiny and public demands made such actions a necessity.

40. The Archbishops knew or ought to have known that their actions or inactions would cause harm to the Plaintiff as he suffered without recourse or assistance for an additional 15 years after the 1998 allegations.

41. The tortious actions of the Archbishops were not the result of any compulsion of duty to the Archdiocese nor were they bona fide within the proper scope of their authority, thereby eliminating any protection the Archdiocesan corporate veil may offer them.

Damages:

42. The Plaintiff states, and the fact is, that as a direct result of the behaviour of the defendants he has suffered damages and losses the particulars of which are as follows:

- (a) physical pain, injury and discomfort;
- (b) mental anguish;
- (c) nervous shock, humiliation, degradation;
- (d) shame, guilt, low self-esteem and feelings of worthlessness;
- (e) depression and anxiety;
- (f) loss of enjoyment of faith;

- (g) loss of religious life/beliefs;
- (h) impairment of his opportunity to experience a normal adolescence and adulthood;
- (i) impairment of his ability and opportunity to obtain and complete an education appropriate to his abilities/aptitude;
- (j) impairment of his ability to earn an income and support himself and time off work due to emotional trauma;
- (k) impairment of his physical health, mental health and emotional well being;
- (l) a loss of enjoyment of life.

43. The Plaintiff has suffered and will continue to suffer physical, emotional and mental pain and suffering and a loss of enjoyment of life. The Plaintiff was deprived of a normal healthy childhood and adolescence as a result of the actions or in-actions of the defendants. The life of the Plaintiff was fundamentally and forever changed by the above-noted behaviour.

44. The Plaintiff was so profoundly negatively affected by these behaviours and activities that he spent many of the formative years of his life struggling to deal with the physical, mental, psychological and emotional sequelae of these events. The Plaintiff has suffered the following:

- (a) impaired performance in education and employment;
- (b) inability to develop and engage in normal human relations, including trust issues and difficulty in establishing relationships of intimacy;
- (c) the questioning of sexual identity, sexual dysfunction, sexual hyperactivity, and other sexual problems;
- (d) suicidal thoughts, ideation, and attempts;
- (e) symptoms of post-trauma stress disorder;
- (f) mistrust of authority figures;
- (g) hyper-vigilance;

- (h) feelings of self worthlessness, inadequacy and hopelessness;
- (i) anxiety and panic;
- (j) sleep disturbance, including nightmares and "flashbacks";
- (k) depression; and
- (l) a propensity to engage in reckless, careless and criminal behaviour

45. The Plaintiff has suffered a tremendous loss of enjoyment of life and ongoing pain and suffering. His ability to carry in a normal life has been extinguished or impaired.

46. The Plaintiff has suffered physical, mental, psychological and emotional stress, shock and suffering which will continue forever.

47. The Plaintiff will require medical treatment and psychological counselling indefinitely throughout his lifetime.

48. The Plaintiff has sustained out-of-pocket expenses, the particulars of which will be provided prior to the trial of the within action.

49. The Plaintiff has suffered and will continue to suffer economic losses, including, past income loss, future and ongoing income loss, and various other out-of-pocket expenses, the particulars of which will be provided. Specifically the Plaintiff, as a result of the sequelae of the abuse has had difficulties with authority and has suffered drug and alcohol addictions which have caused him to lose employment.

50. The Plaintiff pleads that the conduct of Arsenault described herein was harsh, high-handed,

and malicious and, as such, should be punished with aggravated and/or punitive damages, for which the Archdiocese is vicariously liable.

51. The Plaintiff further pleads that the conduct of the Archdiocese described herein was harsh, high-handed, and malicious and, as such, should be punished with aggravated and/or punitive damages, including but not limited to:

- (a) failing to appropriately react to reports of Arsenault's sexual misconduct and instead leaving him in parish ministry and in contact with young people;
- (b) consciously and deliberately suppressing information concerning his sexual misconduct in an effort to protect the reputation of the Diocese over the safety of children; and
- (c) promoting a culture of secrecy with respect to the sexual misconduct of clergy which was intended to benefit the Diocese rather than assist the victims.

52. The Plaintiff has only recently been able to face these effects and still to this day has not fully realized the extent of his victimization. The Plaintiff became sufficiently capable of appreciating the impact of Arsenault's actions in late 2012 and relies upon the principal of discoverability. Prior to this time the Plaintiff has was incapable of proceeding due to the mental and psychological impact and disability of the abuse. The Plaintiff relies upon the discoverability rule.

53. The Plaintiff relies upon the doctrine of fraudulent concealment. The parties were in a special relationship with each other, and given that relationship the defendants' abovementioned actions amount to an unconscionable thing. The effect of the defendants' conduct has given rise to a concealment of the cause of action. The defendants have conducted themselves in a manner so as to mask the wrongful nature of their actions and have thereby prevented the Plaintiff from

commencing an action earlier.

54. The Plaintiff claims, in the alternative to damages, compensation for the above losses.

55. The Plaintiff relies on the *Criminal Code of Canada*, R.S.C. 1985, c. C-46, the *Tortfeasor Act*, R.S.N.B. 1973, Chap. T-8, the *Limitations of Actions Act*, S.N.B. 2009, Chap. L-8.5 and any and all predecessor legislation.

56. The Plaintiff also relies upon the 1917 Code of Canon law and the 1983 Code of Canon Law and related canonical and papal pronouncements as the internal policies and procedures of the Diocese.

57. The Plaintiff, G.P.L., claims damages against the Defendants, jointly and severally, as follows:

- a) non-pecuniary damages for pain and suffering in an amount to be determined by this Honourable Court;
- b) past and future pecuniary damages in an amount to be determined by this Honourable Court;
- c) special damages in an amount to be determined by this Honourable Court;
- d) damages for mental distress in an amount to be determined this Honourable Court ;
- e) aggravated damages in an amount to be determined this Honourable Court ;
- f) punitive and exemplary damages in an amount to be determined this Honourable Court;
- g) specific performance that the Court order the defendant Archdiocese to produce to the Royal Canadian Mounted Police, all information and documentation in the

Archdiocese's possession or control, including that of any agent of the Archdiocese, regarding allegations of sexual misconduct by any and all of their priests or employees, either deceased or living;

- h) pre-judgment and post-judgment interest on the above-noted amounts;
- i) Costs of this action on a solicitor-client basis;
- j) HST on Costs;
- k) such further and other relief as to this Honourable Court may seem to be as just.

58. The Plaintiff intends to proceed in the French and English languages.

DATED at Moncton, this 31 day of May, 2013.

MCGRATH BOYD

RENE A. LEBLANC

15 Alma Street

Moncton, New Brunswick

PO Box 831, E1C 8N6

rieblanc@mcgrathboyd.com

phone : 506 858-9000

fax : 506 857-9965